UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,959	11/30/2001	Mark Muhlestein	5693P272X	5673

48102 7590 07/24/2006

NETWORK APPLIANCE/BLAKELY
12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER	
KHOSHNOODI, NADIA	

ART UNIT	PAPER NUMBER
2137	

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/010,959	MUHLESTEIN, MARK	
	Examiner	Art Unit	
	Nadia Khoshnoodi	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 42-71* is/are pending in the application.

4a) Of the above claim(s) ~~*16-41*~~ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15 and 42-71* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 November 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/6-23-2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/23/2006 has been entered.

Response to Amendment

Claims 16-41 have been cancelled. Applicant's arguments/amendments with respect to amended claims 1-5, 9-10, & 13, newly presented claims 42-71, and previously presented claims 6-8, 11-12, & 14-15 filed 6/23/206 have been fully considered and therefore the claims are rejected under new grounds.

Claim Rejections - 35 USC § 102

I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

II. Claims 1, 4, 6-7, 11-12, 14-15, 42, 45, 47-48, 52-53, 55-56, 57, 60, 62-63, 67-68, and 70-71 are rejected under 35 U.S.C. 102(e) as being fully anticipated by Tso et al., US Patent No. 6,088,803.

As per claims 1, 42, and 57:

Tso et al. teach the method, system, and machine-readable medium for receiving a user request for an object maintained at a server (col. 2, lines 62-66); upon a request from the server, performing an operation on data associated with said object at a cluster device, said cluster device being a separate device from said server, said operation including accessing said object at said server and determining a result of scanning said object at said cluster device (col. 2, line 66 – col. 3, line 5); and conditionally allowing access to said object in response to said user request based on said result (col. 3, lines 5-10).

As per claims 4, 45, and 60:

Tso et al. teach the method, system, and machine-readable medium of claims 1, 42, and 57. Furthermore, Tso et al. teach persistently recording said result of said operation in association with said object (col. 5, lines 1-4).

As per claims 6, 47, and 62:

Tso et al. teach the method, system, and machine-readable medium of claims 1, 42, and 57. Furthermore, Tso et al. teach wherein said operation includes a plurality of processes, each one process being performed at a separate cluster device (col. 5, lines 1-4).

As per claims 7, 48, and 63:

Tso et al. teach the method, system, and machine-readable medium of claims 1, 42, and 57. Furthermore, Tso et al. teach wherein said operation includes at least one of: virus scanning, encryption or decryption, compression or decompression (col. 3, lines 2-5).

As per claim 11:

Tso et al. teach the method of claim 1. Furthermore, Tso et al. teach at a first time, recording said result of said operation for said object; and at a second time, conditioning said operation on said result (col. 5, lines 1-6).

As per claims 12, 53, and 68:

Tso et al. teach the method, system, and machine-readable medium of claims 1, 42, and 57. Furthermore, Tso et al. teach wherein said result includes at least one of: a time when said operation was performed, remedial measures taken in response to said operation, whether access was allowed in response to said operation (col. 5, lines 6-7).

As per claims 14, 55, and 70:

Tso et al. teach the method, system, and machine-readable medium of claims 1, 42, and 57. Furthermore, Tso et al. teach wherein said operation is performed before allowing access to said object for requests including read access (col. 3, lines 2-10).

As per claims 15, 56, and 71:

Tso et al. teach the method, system, and machine-readable medium of claims 1, 42, and 57. Furthermore, Tso et al. teach wherein said operation is performed after allowing access to said object for requests including write access (col. 5, lines 6-13).

As per claims 52 and 67:

Tso et al. teach the system, and machine-readable medium of claims 42 and 57. Furthermore, Tso et al. teach wherein a second operation on said at least one of the set of objects is conditioned on the result (col. 5, lines 1-13).

Claim Rejections - 35 USC § 103

III. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

IV. Claims 2, 43, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al., US Patent No. 6,088,803, as applied to claims 1, 42, and 57 above and further in view of Ji et al., US Patent No. 5,623,600.

As per claims 2, 43, and 58:

Tso et al. substantially teach a method, an apparatus, and memory/mass storage as in claims 1, 42, and 57. Not explicitly disclosed is including conditioning said operation on a feature of said object, said feature including at least one of: a file name, a file type, a file-system share. However, Ji et al. teach that the file type of the requested file is taken into consideration for the scanning process. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Tso et al. to use the file type of the requested file in order to determine whether or not it is possible for that file to be a virus based on its extension. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Ji

et al. teach that if the file type of the requested file is not an executable then extra time should not be used to scan it in col. 7, lines 33-40.

V. Claims 3, 44, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al., US Patent No. 6,088,803, as applied to claims 1, 42, and 57 above and further in view of Ji et al., US Patent No. 5,623,600 and Garrison, US Patent No. 6,275,939.

As per claims 3, 44, and 59:

Tso et al. substantially teach a method, an apparatus, and memory/mass storage as in claims 1, 42, and 57. Not explicitly disclosed is including conditioning said operation on a feature of said object, said feature including at least one of: a file name, a file type, a file-system share. However, Ji et al. teach that the file type of the requested file is taken into consideration for the scanning process. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Tso et al. to use the file type of the requested file in order to determine whether or not it is possible for that file to be a virus based on its extension. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Ji et al. teach that if the file type of the requested file is not an executable then extra time should not be used to scan it in col. 7, lines 33-40.

Also not explicitly disclosed is a type of access associated with said user request; wherein said operation is performed for an intersection of at least one of said feature and at least one type of access. However, Garrison teaches a type of access associated with said user request wherein said operation is performed for an intersection of at least one feature and at least one type of access. Therefore, it would have been obvious to a person in the art at the time the invention was

made to modify the method disclosed in Tso et al. to allow access based on the intersection of the file type of the requested file in order to determine whether or not it is possible for that file to be a virus based on its extension and the type of access associated with the user request. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Garrison teaches using some type of codeword and the user's access rights in order to determine what information should be accessible to that user in col. 7, lines 33-67.

VI. Claims 5, 8-10, 46, 49-51, 61, and 64-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al., US Patent No. 6,088,803, as applied to claims 1, 42, and 57 above and further in view of Midgely et al., US Patent No. 5,604,862.

As per claims 5, 46, and 61:

Tso et al. substantially teach the method, system, and machine-readable medium of claims 1, 42, and 57. Not explicitly disclosed is including selecting said cluster device to perform said operation in response to a priority class associated with said cluster device. However, Midgely et al. teach that each cluster device maintains a hierarchical storage system. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Tso et al. for the cluster device to perform the operation in response to a query for a more frequently used item that the cluster has stored in the faster, yet more expensive memory. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Midgely et al. suggest that using a hierarchical storage system has the advantage of allowing access to frequently used items more quickly in col. 1, lines 39-46.

As per claims 8, 49, and 64:

Tso et al. substantially teach the method, system, and machine-readable medium of claims 1, 42, and 57. Furthermore, Tso et al. teach setting a timeout at said server (col. 4, lines 8-17). Not explicitly disclosed is wherein said operation includes resetting said timeout in response to receiving a response from said cluster device to a protocol message asking if said cluster device is still working on said operation; and determining that said operation is successful in response to receiving a response from said cluster device before said timeout expires. However, Midgely et al. teach that if there is an unresponsive server, the replica takes over in order to respond with the data requested in order to show that the device is down. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Tso et al. to use a timeout that will shows the device is down if it is not reset as working on the request. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Midgely et al. suggest that using a reasonable timeout can be helpful in indicating various security issue once that timeout has expired in col. 5, lines 23-45.

As per claims 9, 50, and 65:

Tso et al. substantially teach the method, system, and machine-readable medium of claims 1, 42, and 57. Not explicitly disclosed is including assigning an access type to said cluster device, said access type allowing said cluster device to perform said operation notwithstanding user locks associated with said object. However, Midgely et al. teach the cluster device having a list that allows it access, but disallows user access at that time. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed

in Tso et al. to assign an access type to the cluster device, allowing the device to access the file. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Midgely et al. suggest that allowing the cluster device to perform its operations protects the integrity of the data objects in col. 6, lines 34-64.

As per claims 10, 51, and 66:

Tso et al. substantially teach the method, system, and machine-readable medium of claims 1, 42, and 57. Not explicitly disclosed is including restricting said access type in response to at least one of: a selected set of network addresses for said cluster device, a selected set of domain names for said cluster device, a selected set of user names at said cluster device, a selected set of interfaces between said server and said cluster device. However, Midgely et al. teach that access is restricted to a selected set of user names at the cluster device. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Tso et al. to further restrict the client's access to a selected set of user names at the cluster device in order to ensure that the requesting user is in fact authorized to access the particular file being requested. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Midgely et al. suggest that restricting a client's access to a selected set of user names will add more security to the system so that unauthorized users are not able to access more than they are supposed to in col. 6, lines 42-64.

VII. Claims 13, 54, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tso et al., US Patent No. 6,088,803, as applied to claims 1, 42, and 57 above and further in view of

Garrison, US Patent No. 6,275,939.

As per claims 13, 54, and 69:

Tso et al. substantially teach the method, system, and machine-readable medium of claims 1, 42, and 57. Not explicitly disclosed is including conditioning said operation on a type of access associated with said user request. However, Garrison teaches that a user's access rights are taken into consideration when a file is requested. Therefore, it would have been obvious to a person in the art at the time the invention was made to modify the method disclosed in Tso et al. to further restrict the client's access to a selected set of user names at the cluster device in order to ensure that the requesting user is in fact authorized to access the particular file being requested. This modification would have been obvious because a person having ordinary skill in the art, at the time the invention was made, would have been motivated to do so since Garrison suggests that checking the user's status will ensure that unauthorized users cannot gain access to information they are not meant to see in col. 8, lines 1-5.

**References Cited, Not Used*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US Patent No. 6,327,658
2. US Patent No. 6,918,113
3. US Patent No. 6,226,752

The above references have been cited because they are relevant due to the manner in which the invention has been claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadia Khoshnoodi whose telephone number is (571) 272-3825. The examiner can normally be reached on M-F: 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nadia Khoshnoodi
Examiner
Art Unit 2137
7/19/2006

NK

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100